

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

BURTON CRAIG CLEMMER  
TX-1320486-G

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DOCKETED COMPLAINT NO.  
13-240

### **AGREED FINAL ORDER**

On the 21 day of Feb, 2014, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Burton Craig Clemmer (the Respondent).

In order to conclude this matter, Respondent neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the disciplinary action set out in this Agreed Final Order (the Agreed Final Order). The Board makes the following findings of fact and conclusions of law and enters this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

### **FINDINGS OF FACT**

1. Respondent is a Texas state certified general real estate appraiser who held certification number, TX-130486-G, and was certified by the Board during all times material to the above-noted complaint case.
2. Respondent appraised real property located at 2011 Cedar Springs Road #403, Dallas, Texas 75201 (the Property) on or about April 10, 2013.
3. Thereafter, the complaint, numbered 13-240, was filed with the Board by Rels Valuation. The Board investigated the complaint to ensure compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CHPT. 1103 (the Act) and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the Rules).
4. The Board, in accordance with the mandate of TEX. GOV'T CODE CHPT. 2001, the Administrative Procedure Act (the APA), and the Act, notified Respondent of the nature of the accusations involved. Respondent was afforded an opportunity to respond to the accusations in the complaint and was also requested to provide certain documentation to the Board. Thereafter, the Respondent responded with documentation.
5. As a result of the Board's investigation, the Board contends that Respondent violated TEX. OCC. CODE § 1103.405, 22, TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the Property:
  - a) USPAP Scope of Work Rule – Respondent's failed to perform the scope of work necessary to develop credible assignment results;

- b) USPAP Standards 1-2(a) and 2-2(b)(i) – Respondent failed to properly identify the client of the appraisal;
  - c) USPAP Standards 1-2(e)(i) and 2-2(b)(iii) – Respondent failed to adequately identify and report the site description;
  - d) USPAP Standards 1-3(b) and 2-2(ix) – Respondent failed to adequately develop an opinion of highest and best use;
  - e) USPAP Standard 2-2(b)(viii) – Respondent failed to explain and support the exclusion of the cost approach;
  - f) USPAP Standards 1-4(a) and 2-2(b)(viii); 1-1(a) and 1-4(a) – Respondent has failed to collect, verify, analyze and reconcile comparable sales data adequately and has not employed recognized methods and techniques in the sales comparison approach;
  - g) USPAP Standards 1-5(a) and 2-2(b)(viii); 1-1(b) – Respondent failed to disclose and analyze significant and material information regarding the Property's listing history;
  - h) USPAP Standards 1-6(a) and 2-2(b)(viii) – Respondent failed to reconcile the quality and quantity of the data within the sales comparison approach;
  - i) USPAP Standards 1-1(a), 1-1(b), 1-1(c), 2-1(a) and 2-1(b) – For the reasons detailed above, Respondent produced a misleading appraisal report for the Property that contained several substantial errors of omission or commission by not employing correct methods and techniques. This resulted in an appraisal report that was not credible.
6. Respondent made omissions of material fact with respect to the appraisal of the Property as detailed above.
7. The parties enter into this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

## **CONCLUSIONS OF LAW**

1. The Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE CHPT. 1103.
2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(6).
3. Respondent violated 22 TEX. ADMIN. CODE § 153.20(12) by making omissions of material fact.

4. The parties are authorized to resolve their dispute by means of a consent order in accordance with TEX. OCC. CODE § 1103.458.

## **ORDER**

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that Respondent's Texas state certification (TX-1320486-G) is hereby suspended for twelve (12) months, beginning on February 21, 2014, with this suspension being fully probated under the following terms and conditions:

1. **EDUCATION.** On or before February 21, 2015. Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance. If the class requires an exam, Respondent must receive a passing grade on the exam. None of the required class hours will count toward Respondent's continuing education requirements for licensure. **Respondent is solely responsible for locating and scheduling classes to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.**
  - a. A classroom course on USPAP, a minimum of fifteen (15) class hours, on or before February 21, 2015.
  - b. A classroom course on the Sales Comparison Approach, a minimum of fifteen (15) class hours, on or before February 21, 2015.
  - c. A classroom course on Report Writing, a minimum of fifteen (15) class hours, on or before February 21, 2015.
2. **ADMINISTRATIVE PENALTY.** On or before March 13, 2014. Respondent shall pay to the Board an administrative penalty of five hundred dollars (\$500.00), by certified funds, within twenty (20) days of the effective date of this Agreed Final Order (i.e. on or before March 13, 2014).
3. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and
4. Respondent shall comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

## **ACKNOWLEDGMENT AND WAIVER**

**RESPONDENT'S FAILURE TO TIMELY COMPLY WITH ANY TERM IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE SHALL RESULT IN THE AUTOMATIC REVOCATION OF PROBATION AND THE SUSPENSION IMPOSED IN THIS AGREED FINAL ORDER SHALL BE EFFECTIVE FOR THE FULL TERM**

**COMMENCING ON THE EFFECTIVE DATE OF THE REVOCATION OF PROBATION. IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERMS IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, THE RESPONDENT SHALL BE IMMEDIATELY ASSESSED A \$1,000 ADMINISTRATIVE PENALTY.**

**ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE ACT OR THE APA, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS.**

**RESPONDENT, BY SIGNING THIS AGREED FINAL ORDER, WAIVES THE RESPONDENT'S RIGHT TO A FORMAL HEARING, ANY MOTION FOR REHEARING, AND ANY RIGHT TO SEEK JUDICIAL REVIEW OF THIS AGREED FINAL ORDER.** Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's website.

Respondent is solely responsible for timely delivery to the Board of all documents and payments necessary for compliance of this Agreed Final Order. Payment of any administrative penalties due must be in the form of a cashier's check or money order made payable to the Texas Appraiser Licensing and Certification Board. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming receipt by the Board of all the necessary documents.

Respondent shall send all documents and payments necessary for compliance by: (1) email to [compliance.talcb@talcb.texas.gov](mailto:compliance.talcb@talcb.texas.gov), (2) fax to (512) 936-3966, attn: Compliance, or (3) certified mail return receipt requested to Standards & Enforcement Services, Texas Appraiser Licensing & Certification Board, Stephen F. Austin Building, 1700 N. Congress Ave., Suite 400, Austin, TX 78701.

**I HAVE READ AND REVIEWED THIS ENTIRE AGREED FINAL ORDER FULLY AND AM ENTERING INTO IT OF MY OWN FREE WILL TO AVOID THE EXPENSE OF LITIGATION AND TO REACH AN EXPEDITIOUS RESOLUTION OF THE MATTER. I NEITHER ADMIT NOR DENY THAT THE FINDINGS OF FACT AND CONCLUSIONS OF LAW CONTAINED HEREIN ARE CORRECT. I UNDERSTAND ALL OF MY COMPLIANCE OBLIGATIONS UNDER THIS AGREED FINAL ORDER AND THE CONSEQUENCES FOR FAILING TO COMPLY WITH THOSE OBLIGATIONS.**


**I UNDERSTAND THAT THE BOARD AND ITS STAFF CANNOT PROVIDE ME WITH LEGAL ADVICE AND I AM AWARE OF MY RIGHT TO BE REPRESENTED BY AN ATTORNEY OF MY OWN CHOOSING. I AM AWARE OF MY RIGHT TO A HEARING, AND HEREBY WAIVE A HEARING AND ALSO WAIVE ANY RIGHT TO SEEK JUDICIAL REVIEW OF THIS AGREED FINAL ORDER, INCLUDING FOR ANY SUBSEQUENT ACTION RESULTING FROM MY FAILURE TO TIMELY COMPLY WITH AN ADMINISTRATIVE REQUIREMENT OF THIS AGREED FINAL ORDER (E.G. PAYMENT OF A PENALTY, COMPLETION OF REMEDIAL EDUCATION, OR FAILURE TO PROVIDE LOGS).**

This agreement may be executed in one or more counterparts, in form of electronic mail, facsimile, or other written expression of agreement, each of which shall be deemed an original and together shall comprise evidence of full execution of the agreement.

THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

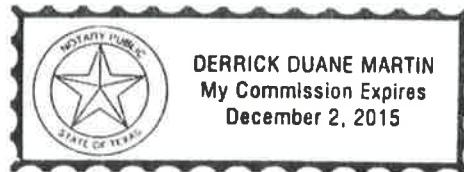
Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

  
BURTON CRAIG CLEMMER

  
TED WHITMER, ATTORNEY FOR  
BURTON CRAIG CLEMMER

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this 2<sup>nd</sup> day of February, 2014, by BURTON CRAIG CLEMMER, to certify which, witness my hand and official seal.

  
Notary Public Signature  
Derrick D. Martin  
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this 4<sup>th</sup> day of February, 2014.

  
Kyle Wolfe, Staff Attorney  
Texas Appraiser Licensing and Certification Board

Signed by the Commissioner this 21 day of Feb, 2014.

  
Douglas Oldmixon, Commissioner  
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 21 day of Feb, 2014.



Walker Beard, Chairperson  
Texas Appraiser Licensing and Certification Board